



NCBANKERS

NORTH CAROLINA BANKERS ASSOCIATION

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March 27, 2006

DELIVERED VIA E-MAIL

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

publichearing@fdic.gov

Re: FDIC Public Hearings on the Deposit Insurance Application of
(Proposed) Wal-Mart Bank

Dear Mr. Feldman:

Thank you for providing this opportunity for the public to comment on the proposed Wal-Mart Bank's application for deposit insurance. Accompanying this letter is a written statement which I am submitting on behalf of the North Carolina Bankers Association and its member banks, savings associations, and trust companies. Because Wal-Mart Bank's application raises many important issues, the NCBA appreciates the careful, measured approach that the FDIC has taken in reviewing the application.

If you have any questions, then please contact me.

Sincerely,

Thad Woodard
President & CEO



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Statement of Mr. Thad Woodard, President & CEO
North Carolina Bankers Association

FDIC Public Hearings on the Application of the
Proposed Wal-Mart Bank for Federal Deposit Insurance

April 10, 2006

On behalf of the North Carolina Bankers Association (NCBA) and its 145 member banks, savings associations and trust companies, I appreciate the opportunity to present this written testimony regarding the proposed Wal-Mart Bank's application for deposit insurance as an industrial loan company (ILC) chartered in the State of Utah. Specifically, we urge the FDIC to reject all new ILC applications for deposit insurance until Congress has had an opportunity to fully evaluate the current system of regulating these institutions to determine if it adequately protects the financial services industry from systemic risk and safety and soundness problems.

Wal-Mart's application highlights a significant loophole in our banking laws which: (1) threatens to erode the essential distinctions between commercial firms and banking institutions, (2) raises serious concerns regarding the safety and soundness of our financial system, and (3) provides a competitive advantage to ILCs over financial holding companies.

An argument can be made that allowing the mixing of commerce and banking will bring new capital and innovation to the financial system. It may be true that a financial landscape where there are no barriers between banking and commerce, where financial holding companies can own and operate financial centers, gas stations, grocery stores, factories, malls, steel mills and airlines, would bring tremendous convenience and possibly lower prices to certain consumers. But at what cost?

The potential for conflicts of interest and economic mischief that are inherent in such a system is significant. A bank subsidiary of a commercial firm would be subjected to pressure to decline to lend to the competitors of its commercial affiliates. Vendors might feel discouraged from buying products and services from affiliate competitors. Depositors and customers of the bank could be provided with incentives to purchase goods and services at non-depository subsidiaries of the financial holding company.

It is for these reasons that Congress specifically prohibited the mixing of commerce and banking as part of both the Competitive Equality Banking Act of 1987 and the Gramm-Leach-Bliley Act of 1999. It is also why the House of Representatives recently voted to limit *de novo* branching and interest on business checking to companies that are substantially financial in nature. Yet today, the parent companies of ILCs engage in a wide variety of commercial businesses ranging from manufacturing to computer software to retailing. At the same time, many of these institutions operate as full-service banks, making commercial and consumer loans, offering FDIC insured deposits, and issuing credit cards and debit cards.

If the proposed Wal-Mart Bank's application is approved, the ILC would have the broad lending and deposit-taking activities of an FDIC-insured bank, while simultaneously being able to

leverage Wal-Mart's vast retail network for maximum competitive advantage. Wal-Mart Bank would have additional competitive advantages over financial holding companies in that:

- ILCs may operate at less restrictive capital levels. Capital levels for ILCs are decided by the state authority and the FDIC, while financial holding companies are subject to the capital requirements established by the Federal Reserve Board, and agencies are not required to agree upon a common capital requirement.
- ILCs do not have to adhere to the consolidated control and supervision model established in the Gramm-Leach-Bliley Act.
- ILCs are not required to meet the activity limitations of the Bank Holding Company Act.

In a September 2005 report to Congress, the Government Accountability Office (GAO) expressed concern that "insured institutions providing similar risks to the (deposit insurance funds) are not being overseen by bank supervisors that possess similar powers." The GAO noted that "ILCs in a holding company structure may pose more risk of loss" than other financial services holding companies. Other risks include the potential expansion of the federal safety net and increased conflicts of interest within a mixed banking and commercial conglomerate.

The GAO's concerns go directly to the heart of many of the factors that must be considered in connection with the review by the FDIC of applications for deposit insurance. For example, the FDIC must consider the general character and fitness of the management of the depository institution. Although Wal-Mart's managers have proven to make good decisions with respect to creating a global retail corporation, questions have been raised about the character and fitness of management by major investors. Furthermore, bank managers are held to different standards of conduct, and the federal regulator that would oversee Wal-Mart Bank should have the authority to examine the parent, establish capital standards for the ILC, and bring enforcement actions against all of the parties liable for any management problem.

The FDIC must also consider the risk presented by a depository institution to the insurance fund. Since it is not clear how large Wal-Mart Bank would be, the FDIC cannot dismiss as immaterial the risk that such a bank poses to the insurance funds. Without consolidated supervision, deterioration in the parent of a full-service Wal-Mart Bank could have a harmful impact on the ILC itself and, therefore, the deposit insurance system.

Consumers take for granted the safety of their deposits and the reliability of their transactions because of the supervisory framework under which financial holding companies must operate, the capital they must hold, their history of safe and reliable operations and the investments they have made in regulatory compliance and risk management systems. The regulatory framework governing ILCs has the potential to erode these and other safeguards that were put in place to strengthen our financial system and protect taxpayers and consumers.

The proposed Wal-Mart Bank application raises serious concerns regarding safety and soundness, regulatory disparity and competitive equality among financial institutions. Any action that significantly opens the door to commercial ownership of full-service financial institutions, or avoids the strict holding company supervision that is applied to financial holding companies, should be subject to full debate and consideration by Congress.

Therefore, the North Carolina Bankers Association urges the FDIC to reject Wal-Mart Bank's application for deposit insurance.